

★ JAN 22 2019 ★

★ JAN 04 2019 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

BROOKLYN OFFICE

-----X  
MOHAMMED BELLO,

Plaintiff,

**REPORT & RECOMMENDATION**  
**18 CV 3171 (WFK)(LB)**

-against-

HOME DEPOT U.S.A. INC.,

Defendant.

-----X  
**BLOOM, United States Magistrate Judge:**

*Pro se* plaintiff commenced this action against defendant on May 29, 2018, ECF No. 1, and the summons was issued on August 15, 2018, ECF No. 8. The Federal Rules of Civil Procedure provide that:

If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). On August 16, 2018, the Court ordered plaintiff to serve defendant with the summons and complaint by November 13, 2018. As of the date of this Report, the Court's record does not reflect that plaintiff has properly served defendant. Because plaintiff has failed to show good cause why service was not timely effected on defendant, it is respectfully recommended that plaintiff's action should be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

#### **FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b)(2) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court. Any request for an extension of time to file objections must be

made within the fourteen-day period. Failure to file a timely objection to this Report generally waives any further judicial review. Marcella v. Capital Dist. Physicians' Health Plan, Inc., 293 F.3d 42, 46 (2d Cir. 2002); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989); see Thomas v. Arn, 474 U.S. 140 (1985).

SO ORDERED.

/S/ Judge Lois Bloom

LOIS BLOOM

United States Magistrate Judge

Dated: January 4, 2019  
Brooklyn, New York

The application is ~~SO ORDERED~~ granted.  
~~denied.~~

s/WFK

William F. Kuptz, II, U.S.D.J.

Dated: January 17, 2019  
Brooklyn, New York